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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,011	01/08/2004	Ivan Duzevik	08211/0200348-US0/P05778	7721
38845	7590	01/12/2006	EXAMINER	
DARBY & DARBY P.C. P.O. BOX 5257 NEW YORK, NY 10150-5257			WELLS, KENNETH B	
			ART UNIT	PAPER NUMBER
			2816	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/755,011	Applicant(s) DUZEVIK ET AL.	
	Examiner Kenneth B. Wells	Art Unit 2816	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-43, 47, 48, 50-55, 58 and 59 is/are rejected.
- 7) ☒ Claim(s) 44-46, 49, 56 and 57 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's amendment filed on 11/22/05 has been received and entered in the case.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 31-43, 47, 48, 50-55, 58 and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Macaluso.

See paragraph 3 of the previous office action for the details of this reference.

4. Claims 31-43, 47, 48, 50-55, 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamauchi in view of either Raymond or Nagano et al.

See paragraph four of the previous office action for the details of this rejection.

5. Claims 44-46, 49, 56 and 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Also note U.S. Patent No. 6,853,253 which is also seen to anticipate at least independent claim 31.

7. Applicant's arguments filed on 11/22/05 have been fully considered but they are not persuasive.

The first argument, that the transistors 11 and 14 of Yamauchi are biased in the saturation mode, it is not persuasive because it is the examiner's position that these transistors are actually biased in the linear mode (because the structure shown in Yamauchi appears to be exactly the same as that in applicants invention and therefore the circuit operation should be essentially the same). The same is true for the applicants second argument regarding the biasing of the transistors in Macaluso, i.e., the transistors will also be biased in the linear region.

The next argument, that there is no motivation to modify the circuitry of Yamauchi by placing a resistor in parallel with either transistor 11 or transistor 14, is also not persuasive because motivation has clearly been provided in the office action.

As to the declaration submitted by the inventor, the

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arguments included therein are not persuasive because the declaration is self-serving (because it is by the inventor himself, rather than a neutral third party) and also because the examiner disagrees with the operation of the prior art alleged by the inventor.

It is also noted that the claims do not recite that the transistors which form the first and second variable resistance circuits operate in the linear region and therefore none of the arguments directed to the operation in such a region will be sufficient to overcome the above-noted rejections. As noted above, it is the examiner's position that the variable resistance circuits in the Macaluso and Yamauchi references will in fact operate in the linear region because the driver circuitry of these references is essentially the same as the driver circuitry of the instant invention.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

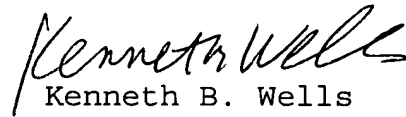
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B. Wells whose telephone number is (571)272-1757. The examiner can normally be reached on Monday through Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy P. Callahan, can be reached at (571)272-1740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kenneth B. Wells
Primary Examiner
Art Unit 2816

January 7, 2006